



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/158652

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 26, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on July 22, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's application for health care benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

;

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: Belinda Bridges  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On April 15, 2014, the Petitioner submitted an application for health care benefits which was processed by the agency on May 12, 2013.

3. On May 13, 2013, the agency issued a Notice of Proof and Information Needed to the Petitioner requesting employment and income verification for Petitioner's employment with [REDACTED] and her husband's self-employment from [REDACTED]. The due date for the information was June 10, 2014.
4. On May 20, 2014, Petitioner submitted earned income verification from [REDACTED] and 3 pages of Petitioner's 2013 tax return (pages 1 and 2 of the 1040 and page 1 of Schedule E) to verify Petitioner's husband's self-employment.
5. Petitioner's monthly earned income from [REDACTED] is \$1,572.32 based on pay statements submitted for the previous 30 days. Petitioner's husband's monthly self-employment income is \$843.33 based on 2013 tax return information.
6. On May 22, 2014, the agency determined additional information was needed.
7. On June 10, 2014, the agency issued a Notice of Decision to the Petitioner informing her that her application was denied due to income exceeding program limits and failure to provide requested information to the agency.
8. On June 26, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.
9. On July 3, 2014, the agency issued a Notice of Proof Needed to the Petitioner requesting self-employment verification and income for the Petitioner's husband. The due date for the information was August 1, 2014. The agency pended the Petitioner's case.
10. On July 7, 2014, the agency issued a Notice of Decision informing the Petitioner that her application was denied for income exceeding program limits.

### **DISCUSSION**

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; BadgerCare Plus Eligibility Handbook (BCPEH), § 2.1, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in March 2014). The Petitioner meets the nonfinancial eligibility tests for the program.

The Petitioner must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); BCPEH, § 16.1. The 100% FPL amount is \$1,310.83 monthly for a household of two, and \$1,649.17 for a household of three persons in 2014. Id., § 50.1.

The petitioner has two adult children who resides with her. She seeks health care benefits for herself and her husband. One child is not a tax dependent of the Petitioner. The other child is a tax dependent. Thus, the agency determined the assistance group size is three.

The Department has calculated a gross earned income amount for the petitioner of \$1,572.32, based on the average of 30 days of paystubs. The Petitioner's husband had gross monthly income of \$843.33 from self-employment based on the 2013 tax records.

At the hearing, the Petitioner asserted that her son should not be listed in the assistance group and his income should not be counted because she is only asking for coverage for herself and her husband. The agency did not include the Petitioner's son's income in the calculation of monthly gross income. Counting only the Petitioner's earned income and her husband's self-employment income, the total household income exceeds the program limit of either \$1,649.17 for a household of three and \$1,310.83 for a household of two. The Petitioner also indicated that the self-employment income of her husband has

changed. The Petitioner was advised that she can submit additional information to the agency to review the self-employment income if changes have occurred.

Based on the evidence submitted at the hearing, I conclude the agency properly determined that the Petitioner's household income exceeds program limits and the agency properly denied the Petitioner's application for health care benefits.

### **CONCLUSIONS OF LAW**

The agency properly determined that the Petitioner's household income exceeds program limits and the agency properly denied the Petitioner's application for health care benefits.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 9th day of September, 2014

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on September 9, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability